

P16123

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 22318

PERMIT 16123

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND
AMENDING THE PERMIT

WHEREAS:

1. A PETITION FOR EXTENSION OF TIME WITHIN WHICH TO DEVELOP THE PROJECT AND APPLY THE WATER TO THE PROPOSED USE HAS BEEN FILED WITH THE STATE WATER RESOURCES CONTROL BOARD.
2. THE PERMITTEE HAS PROCEEDED WITH DILIGENCE AND GOOD CAUSE HAS BEEN SHOWN FOR EXTENSION OF TIME AND FOR THE SAID CHANGE.

NOW, THEREFORE, IT IS ORDERED THAT:

1. PARAGRAPH 9 OF THE PERMIT IS AMENDED TO READ AS FOLLOWS:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

DECEMBER 1, 1990

2. PARAGRAPH 16 IS ADDED AS FOLLOWS:

PURSUANT TO CALIFORNIA WATER CODE SECTIONS 100 AND 275, ALL RIGHTS AND PRIVILEGES UNDER THIS PERMIT AND UNDER ANY LICENSE ISSUED PURSUANT THERETO, INCLUDING METHOD OF DIVERSION, METHOD OF USE, AND QUANTITY OF WATER DIVERTED, ARE SUBJECT TO THE CONTINUING AUTHORITY OF THE STATE WATER RESOURCES CONTROL BOARD IN ACCORDANCE WITH LAW AND IN THE INTEREST OF THE PUBLIC WELFARE TO PREVENT WASTE, UNREASONABLE USE, UNREASONABLE METHOD OF USE, OR UNREASONABLE METHOD OF DIVERSION OF SAID WATER.

THE CONTINUING AUTHORITY OF THE BOARD MAY BE EXERCISED BY IMPOSING SPECIFIC REQUIREMENTS OVER AND ABOVE THOSE CONTAINED IN THIS PERMIT WITH A VIEW TO MINIMIZING WASTE OF WATER AND TO MEETING THE REASONABLE WATER REQUIREMENTS OF PERMITTEE WITHOUT UNREASONABLE DRAFT ON THE SOURCE. PERMITTEE MAY BE REQUIRED TO IMPLEMENT SUCH PROGRAMS AS (1) REUSING OR RECLAIMING THE WATER ALLOCATED; (2) USING WATER RECLAIMED BY ANOTHER ENTITY INSTEAD OF ALL OR PART OF THE WATER ALLOCATED; (3) RESTRICTING DIVERSIONS SO AS TO ELIMINATE AGRICULTURAL TAILWATER OR TO REDUCE RETURN FLOW; (4) SUPPRESSING EVAPORATION LOSSES FROM WATER SURFACES; (5) CONTROLLING PHREATOPHYTIC GROWTH; AND (6) INSTALLING, MAINTAINING, AND OPERATING EFFICIENT WATER MEASURING DEVICES TO ASSURE COMPLIANCE WITH THE QUANTITY LIMITATIONS OF THIS PERMIT AND TO DETERMINE ACCURATELY WATER USE AS AGAINST REASONABLE WATER REQUIREMENTS FOR THE AUTHORIZED PROJECT. NO ACTION WILL BE TAKEN PURSUANT TO THIS PARAGRAPH UNLESS THE BOARD DETERMINES, AFTER NOTICE TO AFFECTED PARTIES AND OPPORTUNITY FOR HEARING, THAT SUCH SPECIFIC REQUIREMENTS ARE PHYSICALLY AND FINANCIALLY FEASIBLE AND ARE APPROPRIATE TO THE PARTICULAR SITUATION.

(000 0012)

3. PARAGRAPH 17 IS ADDED TO THIS PERMIT AS FOLLOWS:

THE STATE WATER RESOURCES CONTROL BOARD, UNDER ITS AUTHORITY TO CONSERVE THE PUBLIC INTEREST, RETAINS CONTINUING AUTHORITY OVER THIS PERMIT TO REQUIRE PERMITTEE TO DEVELOP AND IMPLEMENT A WATER CONSERVATION PROGRAM, AFTER NOTICE AND OPPORTUNITY FOR HEARING. THE REQUIREMENTS OF THIS TERM MAY BE SATISFIED BY PERMITTEE'S COMPLIANCE WITH ANY COMPREHENSIVE WATER CONSERVATION PROGRAM, APPROVED BY THE STATE WATER RESOURCES CONTROL BOARD, WHICH MAY BE IMPOSED BY A PUBLIC AGENCY.

(000 029 B)

DATE: MARCH 31 1981

Walter G. Pettit

WALTER G. PETTIT, CHIEF
DIVISION OF WATER RIGHTS

CONTACT REPORT

DIVISION OF WATER RIGHTS

STATE WATER RESOURCES CONTROL BOARD

Division Personnel L. Spencer

Subject Fish water release at Felton Diversion Dam

Permits 16123 & 16601 (Applications 22318 & 23710)

Date 1-3-79 Time 16145

Personal ☐ Where _____

Telephone ☒ Number 408-429-3670

Individual(s)/Agency Contacted Morris Allen

Conversation Description Paul Chappelle of DFG called Walt Pettit this afternoon about a fisheries problem in San Lorenzo River below Felton Diversion Dam. He reported that flow was below 20 cfs and the City was bypassing the entire flow. The inflatable dam was not inflated enough to cause the fish ladder to operate and salmon were spawning below the diversion dam. See Walt's note for further info. Walt asked me to call Morris Allen and check out the factual situation.

Morris stated that the flow in the San Lorenzo was 16 cfs, that the entire flow was being bypassed. The inflatable dam was up about 2 feet and the fish ladder non-operational. The flow being bypassed was too swift for the salmon to navigate. We discussed Chappelle's proposal, and Morris mentioned an alternative. He stated that the City was not willing to operate at variance from its permit without a directive from us. He stated that an order by the Board would not be necessary, a written directive would be sufficient.

I stated we would keep him advised of developments.

Decision(s) _____

Action Items _____

SURNAME	<u>Spencer</u>	<u>Walt Pettit 1/5</u>		
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P16123.

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 22318 Permit 16123 License

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 16123 was issued to City of Santa Cruz on December 21, 1970 pursuant to Application 22318.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board (SWRCB).
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
4. Permit Condition 11 pertaining to the continuing authority of the SWRCB should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE December 31, 2006 (0000009)
2. Condition 11 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to:

 - (1) reusing or reclaiming the water allocated;
 - (2) using water reclaimed by another entity instead of all or part of the water allocated;
 - (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow;
 - (4) suppressing evaporation losses from water

surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: SEPTEMBER 9 1996


for Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 22318

PERMIT 16123

LICENSE _____

ORDER CORRECTING DESCRIPTION OF
POINT OF DIVERSION

WHEREAS:


1. The permittee's Felton Diversion Plant was constructed within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 22 instead at the permitted point of diversion being within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 22.
2. The State Water Resources Control Board has determined that no legal user of water will be injured by correcting the description of point of diversion.

NOW, THEREFORE, IT IS ORDERED THAT:

1. The description of the point of diversion under permit 16601 be corrected to read as follows:

SOUTH 30⁰ EAST 3,200 FEET FROM THE NW CORNER OF SECTION 22 BEING
WITHIN THE NE $\frac{1}{4}$ OF SW $\frac{1}{4}$ OF PROJECTED SECTION 22, T10S, R2W, MDB&M.

Dated: DECEMBER 8 1978


Michael A. Campos, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Request for)
Modification of Terms of)
Permits 16123 and 16601 by)
CITY OF SANTA CRUZ)

Decision 1464

DECISION TEMPORARILY MODIFYING PERMIT TERMS

BY BOARD MEMBER ADAMS:

On March 8, 1977, the State Water Resources Control Board held a public hearing in the above-entitled matter pursuant to Section 736.1 of Title 23, California Administrative Code. This hearing was held to determine whether the Board should exercise its continuing authority under Term 11 of Permits 16123 and 16601 to modify permit conditions regarding bypasses for preservation of fish and wildlife. The City of Santa Cruz, Department of Fish and Game and other interested parties having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Permittee's Water Supply System

1. Permittee's water system provides service to about 58,000 customers within and without the city limits. Permittee's major sources of water are the San Lorenzo River, coastal streams and wells.

2. Permittee holds Permits 16123 and 16601 which authorize diversion from San Lorenzo River at Felton diversion offstream storage in Loch Lomond Reservoir. These permits together limit the total quantity diverted at the Felton diversion to 3,000 acre-feet per annum (afa). The annual safe yield estimate for the remaining components of permittee's water supply is as follows: Newell Creek, 2,300 afa; San Lorenzo River at Crossing Street, 6,190 afa; wells, 450 afa; and coastal streams, 1,360 afa. The total annual safe yield estimate for the City's system, including the Felton diversion, is 13,300 afa.

3. Evidence established the existence of a bonafide drought and that because of the existing drought conditions the City would have a deficiency of 2,832 acre-feet (af) in estimated total annual safe yield at the end of this year, assuming normal usage.

Water Conservation Measures

4. On March 1, 1977, the City of Santa Cruz adopted a water conservation ordinance (Ordinance No. 77-6) which declares the presence of a drought emergency, reduces water use, and prescribes penalties for violations. The water usage provisions are substantially as follows:

Residential usage:

<u>Persons per house</u>	<u>Bimonthly Amount</u>	<u>Equivalent Gallons per day</u>	<u>Equivalent Gallons per day per person</u>
1	900 cf	112	112
2	1500 cf	187	94
3	2000 cf	250	83
4	2400 cf	300	75
Each addi- tional person	400 cf	50	

All other uses, including commercial, industrial, and irrigation, are limited to 70 percent of use in 1975.

5. A priority system for water use based upon need was not established by the ordinance, and the ordinance is specifically found to be deficient in this respect. Moreover, testimony was presented, including that of a witness representing the County of Santa Cruz, generally critical of the daily per capita domestic water consumption allowed by the ordinance. One witness characterized the measure as a "water wasting" ordinance. Nevertheless, it is found that the measure does require a substantial reduction in "normal" water usage in the permittee's service area. The Board is reluctant to review the judgment of permittee's City Council, at this time, with respect to the specifics of its water conservation measures.

6. The water conservation measures noted above would, by permittee's estimate, reduce water consumption by 3,500 af by the end of this year. This saving in consumption, less the

deficit identified in paragraph 3 would result in a net savings of 700 af to permittee's system for use after 1977.

Availability of Alternative Supplies

7. Evidence established that the most likely source of an alternative water supply is increased use of groundwater. However, neither this source nor increased diversion from the San Lorenzo River at Crossing Street is available at this time. It is further found that permittee in the past has not diligently pursued development of alternative supplies.

Permittee's Request

8. By letter of February 9, 1977, permittee requested a temporary modification of Term 16 of Permit 16601. (Since the same restriction is imposed by Term 14 of Permit 16123, modification of that term was also considered at the hearing.) The effect of these terms relevant to this proceeding is to require bypass of 20 cubic-feet per second (cfs) or the natural flow, whichever is the less, until May 31, the end of the diversion season, for preservation of fish and wildlife. Permittee requested that this bypass requirement be reduced to 10 cfs.

9. Since the effect of the water conservation measures taken by permittee will be to achieve a net saving of 700 af this year for use next year, it is found that permittee's supply will not be exhausted this year. Therefore, the reason for the request to modify the bypass requirement is to further increase availability of water to the system should the

drought continue into 1978. The City estimates it can increase storage in Loch Lomond by 750-900 af by May 31, 1977, if its request to reduce the bypass flow is granted.

Impact on the Fishery

10. Evidence presented by the Department of Fish and Game established that the existing bypass requirement of 20 cfs is a minimum flow needed to provide transportation for migrating salmon and steelhead.

11. Department of Fish and Game evidence further established that a flow of 14.1 cfs existed on March 1 and flows immediately prior to the date of hearing were about 10.4 cfs, all of which flows, pursuant to the relevant permit terms, were being bypassed. As a result of these low flows, the San Lorenzo River fishery has been and will continue to be damaged. Such flows do not allow migration, but will only serve to keep a small population of fish alive in pools in which they are stranded.

12. Department of Fish and Game evidence further established that modification of the relevant terms to require bypass of 10 cfs for the remainder of the diversion season will not have a significant additional adverse impact on the already damaged fishery, but that any significant storm flows occurring between now and the end of the diversion season at the Felton diversion should be bypassed through the diversion to allow temporary fish movement to mitigate the drought's adverse impact upon the fishery.

13. The Board should, upon any request of Permittee for modification of bypass terms to be effective when the diversion season resumes next fall, hold further hearing to consider the suitability of permittee's water conservation measures and pursuit of alternate supplies.

14. The Department of Fish and Game also recommended that the fishery be given a "credit" in the form of a right to release from storage in a normal water year within five years, at a rate specified by the Department, the amount of water diverted to storage as the result of any modification. The record in this matter discloses considerable concern over the adequacy, in normal years, of the existing fish and wildlife preservation conditions of the permits governing the Felton diversion. Moreover, the record also discloses the existence of an on-going joint local-state program to develop a Waterway Management Plan for the San Lorenzo River. Accordingly, rather than acting upon the Department's recommendation to establish a "credit" for the diversions allowed by the modification, the Board announces its intention to review the adequacy of these existing permit terms in the light of the completed Waterway Management Plan and with the aid of further input by the Department of Fish and Game, permittee, and other interested parties. The Board may, on its own motion or upon request of any interested party, hold a hearing at the appropriate time to conduct such review.

DETERMINATION OF ISSUE

Cause exists for modification of the relevant permit terms regarding minimum bypass flows, upon suitable conditions, in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of water.

ORDER

1. Condition 14 of Permit 16123 is temporarily modified to read:

"14. Permittee shall bypass 10 cubic feet per second or the natural flow, whichever is less, from September 1 through May 31 for the preservation of fish and wildlife; provided, that diversion shall be made only during such times as flow at the diversion exceeds 12.5 cubic feet per second."

2. Condition 16 of Permit 16601 is temporarily modified to read:

"16. For the protection of fish, no diversion shall be made during the month of October which depletes the flow of the stream to less than 25 cubic feet per second nor to less than 10 cubic feet per second during the period November 1 to the succeeding May 31. No water shall be diverted until permittee has installed in the stream immediately below its point of diversion a staff gage, or other device satisfactory to the State Water Resources Control Board, showing the water levels which correspond

to the above-mentioned flows in cubic feet per second. As a condition of continuing diversion, said measuring device shall be properly maintained. Diversion shall be made only during such times as flow at the diversion exceeds 12.5 cubic feet per second."

3. The following additional condition, appropriately numbered, is added to Permits 16123 and 16601:

"The duration of the modification of Condition (14/16) authorized by State Water Resources Control Board Decision 1464, and of this condition shall be from March 17, 1977, through May 31, 1977, and shall thereafter be of no force or effect. From and after June 1, 1977, said condition (14/16) shall be as it existed immediately prior to the effective date of such modification. In addition, the following conditions shall be observed during the effective period of the modification of condition (14/16): (0000300)

- a. During any period when flow at the diversion exceeds 20 cfs, permittee shall bypass 20 cfs for the preservation of fish and wildlife. When, following any such period, such flow recedes to 20 cfs or less but is greater than 18 cfs, permittee shall make no diversion until such flow recedes to 18 cfs or less, whereupon permittee may divert in accordance with modified condition (14/16).

b. Approval of permittee's gage system and rating table was required by State Water Resources Control Board Decision 1459. Interim approval thereof until March 31, 1977, as granted by letter from the Chief, Division of Water Rights, dated November 18, 1976, (333:MLS:22318), is hereby extended through May 31, 1977."

Dated: **MAR 17 1977**

WE CONCUR:

/s/ W. W. Adams
W. W. Adams, Member

/s/ John E. Bryson
John E. Bryson, Chairman

/s/ W. Don Maughan
W. Don Maughan, Vice Chairman

/s/ Roy E. Dodson
Roy E. Dodson, Member

/s/ Jean Auer
Jean Auer, Member

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT No. 16123

Application 22318 of City of Santa Cruz

City Hall, Santa Cruz, California 95061

filed on October 20, 1965, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

San Lorenzo River

Monterey Bay

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
<u>S 48° E 2,904' From NW Corner of</u>	<u>SE ¼ of NW ¼</u>	<u>22</u>	<u>10S</u>	<u>2W</u>	<u>MD</u>
<u>Section 22, T10S, R2W, MDB&M</u>	<u>¼ of ¼</u>				
<u>(Felton Diversion Station)</u>	<u>¼ of ¼</u>				
	<u>¼ of ¼</u>				
	<u>¼ of ¼</u>				
	<u>¼ of ¼</u>				
	<u>¼ of ¼</u>				

County of Santa Cruz

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
<u>Municipal</u>	<u>City of Santa Cruz</u>					
	<u>Water Service Area,</u>					
	<u>within T10-11S,</u>					
	<u>R1-3W, MDB&M</u>					

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used, and shall not exceed 3,000 acre-feet per annum by storage to be collected in Loch Lomond Reservoir from about September 1 of each year to about June 1 of the succeeding year.

The maximum rate of diversion to offstream storage shall not exceed 3,500 gallons per minute.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000 0005)

6. The maximum quantity herein stated may be reduced in the license if investigation warrants. (000 0006)

7. Actual construction work shall begin on or before December 1, 1971 and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked. (000 0007)

8. Said construction work shall be completed on or before December 1, 1975. (000 0008)

9. Complete application of the water to the proposed use shall be made on or before December 1, 1980. (000 0009)

10. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued. (000 0010)

11. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water. ~~and to carry out legally established water quality objectives.~~ (000 0012)

12. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (000 0011)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (000 0013)

14. Permittee shall bypass 10 cubic feet per second or the natural flow, whichever is less from September 1 through September 30; and 20 cubic feet per second or the natural flow, whichever is less from October 1 through May 31 for the preservation of fish and wildlife. (014 0060)

15. The provisions of the preceeding paragraph are based on a bilateral agreement between permittee and the Department of Fish and Game, and shall not be construed as a finding by the State Water Resources Control Board that the amount of water named herein is either adequate or required for the maintenance of fish life. (000 0300)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: DEC 21 1970

STATE WATER RESOURCES CONTROL BOARD

K.L. Woodward
Chief, Division of Water Rights